IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.R.UDAYABHANU

THURSDAY, THE 24TH MAY 2007 / 3RD JYAISHTA 1929

Crl.Rev.Pet.No. 185 of 1998

CC.19/1990 of of ADDL.CHIEF JUDICIAL MAGISTRATE (E & O),ERNAKULAM
CRA.331/1994 II ADDL.SESSIONS COURT, ERNAKULAM
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REVN. PETITIONER:

C.K. ALI, S/O.LATE ABOOBACKER,
CHEMBAKAMKUNNATH HOUSE,
P.O. OLAKARA,
TIRURANGADI, MALAPPURAM DIST.

BY ADV. SRI.SUNNY VARGHESE

RESPONDENTS:
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1. THE ASST.COLECTOR, SPECIAL CUSTOMS PREVENTIVE DIVISION CALICUT REP. BY THE CENTRAL GOVT.STANIDNG COUNSEL.

2. STATE OF KERALA, REP. BY THE PUIBLIC PROSECUTOR, HIGH COURT KERALA, ERNAKULAM.

BY PUBLIC PROSECUTOR MR. AMJAD ALI

THIS CRIMINAL REVISION PETITION HAVING BEEN FINALLY HEARD ON 12-3-2007, THE COURT ON 24-05-2007 PASSED THE FOLLOWING:

ORDER ON CRL.M.P.NO. 985/1998 IN CRL.R.P.NO. 185/1998

DISMISSED.

24-5-2007 SD/-K.R.UDAYABHANU, JUDGE

TRUE COPY

P.S.TO JUDGE

K.R. UDAYABHANU, J.

CRL.R.P.NO.185 of 1998

DATED THIS THE 24th DAY OF MAY 2007

ORDER

The revision petitioner is the accused in C.C.No.19/1990 with respect to the offence under Section 135(1) of the Customs Act and 85(1) of Gold (Control) Act and sentenced to undergo rigorous imprisonment for one year and to pay a fine of Rs.15,000/- and in default to undergo simple imprisonment for four months for the offence under Section 135(1) (i) of the Customs Act and to pay a fine of Rs.5,000/- and in default to undergo simple imprisonment for two months for the offence under Section 85(1)(a) of Gold (Control)Act. The accused/revision petitioner was also undergone pre-trial detention. The prosecution case is that on 4-2-1989 at about 6 p.m.the accused was found in possession of contraband gold biscuits and gold coins of foreign origin, i.e. 4 gold biscuits and 11 gold coins, the estimated value of which was found to be 1,84,192/-. Counsel for the revision petitioner has only sought for leniency pointing out that the revision petitioner is laid up and that he has lost his employment on account of the criminal case and that he has been undergoing the travails of the criminal proceedings for more than 1 ½ decades. It is also pointed out that the import of gold has been made much liberalised

subsequently and that the seized quantity right now could have been brought in without any hassles.

In the circumstances and in view of the fact that the offence was detected on 4-2-1989 and that more than 17 years have elapsed since the commencement of the proceedings and that the accused/revision petitioner has been facing the proceeding so far and also considering that the quantity involved is not that large, I find that the sentence is liable to be modified. In the circumstances, the sentence under Section 135(1) of the Customs Act is modified to imprisonment already undergone and to pay a fine of Rs.30,000/- and in default to undergo simple imprisonment for three months. The sentence imposed for the offence under Section 85(1)(a) of the Gold Control Act, i.e. to pay a fine of Rs.5,000/- and in default to undergo simple imprisonment for two months is confirmed. The revision petition is disposed of accordingly.

Sd/-

K.R.UDAYABHANU, JUDGE

ks. **TRUE COPY**

P.S.TO JUDGE

K.R.UDAYABHANU, J

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CRL.R.P.NO.185 OF 1998

ORDER

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24-05-2007

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